

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EDUARDO ARIAS-MENDOZA,	:	CIVIL ACTION NO. 1:04-CV-0294
	:	
Petitioner	:	(Judge Conner)
	:	
v.	:	
	:	
THOMAS MARINO and CRAIG APKER, Warden, LSCI-Allenwood,	:	
	:	
Respondents	:	

ORDER

AND NOW, this 5th day of May, 2005, upon consideration of the mandate of the Court of Appeals for the Third Circuit (Doc. 17), remanding the above-captioned case for further proceedings on the petition for writ of habeas corpus in light of Clark v. Martinez, 125 S. Ct. 716 (2005), in which the Supreme Court held that the detention of inadmissible “Mariel Cubans” for longer than six months violated 8 U.S.C. § 1231(a)(6) because there was not a “substantial likelihood of [their] removal to Cuba,”¹ see Clark, 125 S. Ct. at 722-27 (citing Zadvydas v. Davis, 533 U.S. 678 (2001)), and it appearing that petitioner is a “Mariel Cuban” held in detention for longer than six months, it is hereby ORDERED that:

¹ The petition was originally denied by this court on the ground that the six-month presumption of reasonableness did not apply to petitioner because he was “inadmissible” to, as opposed to “removable” from, the United States (Docs. 10, 11). Accord Sierra v. Romaine, 347 F.3d 559, 576 (3d Cir. 2003), rev’d, 125 S. Ct. 962 (2005); Soto-Ramirez v. Ashcroft, 228 F. Supp. 2d 566, 569-72 (M.D. Pa. 2002). This construction was rejected by the Supreme Court in Clark, 125 S. Ct. at 722-27, and the Court of Appeals for the Third Circuit subsequently vacated the judgment against petitioner.

1. Respondents shall file, on or before May 16, 2005, a response showing cause why the relief requested in the petition for writ of habeas corpus (Doc. 1) should not be granted.
2. Respondents' motion to stay proceedings (Doc. 16), filed on March 2, 2005, and requesting a stay of thirty days "to provide [the Bureau of Immigration and Custody Enforcement] the opportunity to review [p]etitioner's custody in light of Clark," is DENIED as moot.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge